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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,876	12/12/2001	Karl Torchalski	1085/39014/23	2612

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CHICAGO, IL 60603

EXAMINER
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NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/015,876

Applicant(s)

TORCHALSKI, KARL

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Priority*

1. Acknowledgement is made of Amendment filed 16 December 2003.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Benade et al. (US 5,621,864; hereinafter "Benade").

Re claims 1, 6 and 8-9, 13: Benade teaches a computer software (i.e., label generation control software; see col. 9, line 54 through col. 10, line 24) comprising computer readable code configured to create a printer label format based on a printed label that has been scanned (see figs. 4-8; col. 10, line 25 through col. 11, line 31), the computer readable code configured to scan a label and then to convert the scanned label into a label format using optical character recognition (OCR) (see col. 10, lines 12-24), wherein the computer readable code is configured to recognize text on the scanned label as text (602, 702, 703, 802-804 in figs. 6-8), is configured to recognize graphics on the scanned label as graphics (805 in fig. 8), and is configured to characterize as graphics any items on the scanned label which are not specifically recognized by the computer readable code, the label format being useable to print labels (see figs. 1-8 and 13-16; col. 6, line 34 through col. 12, line 33; col. 16, line 6 through col. 19, line 42).

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Re claims 2 and 10: Benade teaches the computer software, wherein the computer readable code is configured to recognize barcodes on the scanned label as barcodes (fig. 2; steps 210-211; col. 12, lines 35-52).

Re claims 3 and 11: Benade teaches the computer software, wherein the computer readable code is configured to determine at least one parameter (i.e., start and/or stop characters such as a dollar sign or an asterisk) about a barcode on the scanned label, the at least one parameter comprising at least one of aspect ratio, size and human readability (col. 6, line 49 through col. 7, line 6).

Re claims 4 and 12: Benade teaches the computer software, wherein the computer readable code is configured to prompt a user, using a visual display (114 in fig. 1), to confirm that the objects on the scanned label have been correctly characterized by the computer readable code (i.e., the definition provided by the user through the user interface 114 indicates the configuration of labels to be printed, which serves as to confirm that the objects on the scanned label have been correctly characterized by the computer readable code; see col. 6, line 35 through col. 7, line 18; col. 16, line 6 through col. 19, line 42).

Re claim 5: Benade teaches the computer software, wherein the computer readable code is configured to allow the user to change/edit any of the characterizations made by the computer readable code (figs. 13-16; col. 16, line 6 through col. 19, line 42).

Re claims 7 and 14: Benade teaches the computer software, wherein the computer readable code is configured to allow a user to input embedded printer-specific non-printing control codes into the label format (col. 5, line 54 through col. 6, line 33).

***Response to Arguments***

4. Applicant's arguments filed 16 December 2003 have been fully considered but they are not persuasive.

5. In response to Applicant's argument that "In contrast, U.S. Patent No. 5,621,864 (Benade et al.) discloses label generating software which includes a template generator 111. The template generator 111 contains a library of label formats. However, each of the label formats must be effectively programmed from scratch by the user (col. 7, lines 29-61, and specifically col. 7, lines 45-49)" (see page 6, last paragraph, lines 5-7); the Examiner respectfully submits that, based on the presently claimed language, the instant application's label software is of course must be designed/programmed from scratch by a user/programmer prior to the execution of the instant claimed invention. Thus, the Benade reference meets the claimed invention, given its broadest reasonable interpretation.

6. In response to Applicant's argument that "Benade et al. does not disclose or suggest scanning a label, and then using the scanned label to generate a label format which can thereafter be used to print labels. This is the thrust of the claimed invention." (see page 7, lines 2-4); the Examiner respectfully requests the Applicant to further review Benade's reference that "Another form of machine readable code is alphanumeric characters printed in an OCR format. These alphanumeric characters can be scanned by a vision system which translates any printed alphanumeric characters into data that is stored in a computer system..." is clearly disclosed (see col. 10, lines 12-24), which serves as "...scanning a label, and then using the scanned label to generate a label format which can thereafter be used to print labels." Therefore, giving it's broadest reasonable interpretation, the Benade's reference still meets the claimed invention.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

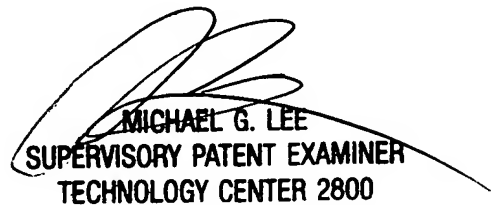
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN

6 March 2004



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